



**Rules and Ancillary Document Review Checklist
(This form must be filled out electronically.)**

All responses should be in **bold** format.

Document Reviewed (include title):

- **WAC 458-12-015 DEFINITION – INTERSTATE COMMERCE.**
- **WAC 458-12-020 DEFINITION – FOREIGN COMMERCE – IMPORTS AND EXPORTS.**
- **PTB 91-6 AD VALOREM TAXATION OF IMPORTS AND EXPORTS – MICHELIN CASE**

Date last adopted: **April 29, 1968**

Reviewer: **Steve Yergeau**

Date review completed: **December 13, 2000**

Is this document being reviewed at this time because of a taxpayer or business association request? (If “YES”, provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request). **YES** **NO**

Type an “x” in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Explain the goal(s) and purpose(s) of the document:

The goal of WAC 458-12-015 is to define “interstate commerce” for assessment staff and taxpayers. The purpose of the rule is to explain and direct assessment staff and taxpayers when personal property (business inventories, merchandise, and goods) is moved or being moved in interstate commerce and is exempt from or subject to Washington’s property taxes.

The goal of WAC 458-12-020 is to define “foreign commerce”, “import”, and “export” for assessment staff and taxpayers. The purpose of the rule is to explain and direct assessment staff and taxpayers when personal property (business inventories, merchandise, and goods) is moved or being moved in foreign commerce and is exempt from or subject to Washington’s property taxes.

2. Need:

YES	NO	
	X	Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)

3. Related ancillary documents, court decisions, BTA decisions, and WTDs: Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an ancillary document. Excise Tax Advisories (ETAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered ancillary documents.

(a)

YES	NO	
	X	Are there any ancillary documents that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
X		Are there any ancillary documents that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)



	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
	X	Should this ancillary document be incorporated into a rule?
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that affects the information now provided in this document?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

In 1976, the department issued PTB 76-2, AD VALOREM TAXATION OF IMPORTS AND EXPORTS – MICHELIN CASE, which summarized a US Supreme Court case (Michelin Tire Corporation v. Wages) giving new direction on the ability of local governments to impose personal property taxes on goods imported and exported through Washington ports.

In 1991, the department rescinded PTB 76-2, replacing it with updated information in PTB 91-6 AD VALOREM TAXATION OF IMPORTS AND EXPORTS – MICHELIN CASE. PTB 91-6 is no longer necessary because of the 1983 legislation noted in section 2 above.

4. Clarity and Effectiveness:

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
	X	Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities, help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do any administrative changes within the Department warrant repealing or revising this document?



Please explain. **These documents no longer provide pertinent information. See notes to Sections 2 and 3 above.**



5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document? (Cite the statutory authority in the explanation below.)
	X	Is the document consistent with the legislative intent of the statutes that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed to implement ?) If “no”, identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	X	Is there a need to recommend legislative changes to the statutes being implemented by this document?

Please explain. **These documents are no longer consistent with the statutes they were designed to implement because of subsequent legislation exempting business inventories from Washington’s property taxes. See notes to Sections 2 and 3 above.**

6. **Coordination:** Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.

The department is charged with the duty of exercising general supervision and control over the administration of the assessment and tax laws of the state, along with the power to formulate such rules and processes for the assessment of both real and personal property for purposes of taxation.

No other federal or state agency deals with or supervises the administration of the property tax program. The department works with county assessors during the rulemaking activities for this program to prevent chances of developing inconsistent rules.

7. **Cost:** When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain.



These are interpretive documents that require no additional burden not already imposed by statute.

8. **Fairness:** When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

9. **LISTING OF DOCUMENTS REVIEWED:** (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, ancillary documents, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented:

- **RCW 84.40.020 Assessment date – Average inventory basis may be used – Public inspection of listing, documents, and records.**
- **RCW 84.36.005 Property Subject to Taxation.**
- **RCW 84.36.473 “Business inventories” and “successor” defined.**
- **RCW 84.36.477 Business inventories.**

Ancillary Documents (i.e., ETAs, PTBs, and ADs):

- **PTB 91-6 AD VALOREM TAXATION OF IMPORTS AND EXPORTS – MICHELIN CASE (Included in this review.)**

Court Decisions:

Board of Tax Appeals Decisions (BTAs):

Administrative Decisions (e.g., WTDs):

Attorney General’s Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):





10. Review Recommendation:

- Amend
- Repeal
- Leave as is
- Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)
- Incorporate ancillary document into a new or existing rule. (Subject of this review must an ancillary document and not a rule.)

Explanation of recommendation: (If recommending an amendment of an existing rule, provide only a brief summary of the changes you've identified/recommended earlier in this review document.)

The enactment of RCW 84.36.477 exempting business inventories from property taxation dramatically decreased the force and effect of WAC 458-12-015 (Interstate Commerce), WAC 458-12-020 (Foreign Commerce), and PTB 91-6 (Imports – Exports).

It is recommended that WAC 458-12-015, WAC 458-12-020, and PTB 91-6 be immediately repealed.

It is also recommended, that when time and staffing levels permit, an abbreviated definition of interstate and foreign commerce should be added to WAC 458-12-115 (Personalty – Taxable Situs – in General).

11. Manager action: Date: _____

- Reviewed recommendation Accepted recommendation
- Returned for further action

Comments: